



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Program
Coordinator Senior Citizens
Transportation (M0297V), City of
Newark

Request for Enforcement

CSC Docket No. 2019-1853

ISSUED: APRIL 17, 2020 (HS)

The Division of Agency Services (Agency Services) requests that the City of Newark (Newark) be ordered to return the January 10, 2018 certification (OL180036) of the eligible list for Program Coordinator Senior Citizens Transportation (M0297V) for proper disposition.

By way of background, Newark provisionally appointed Aileen Pollard, pending open-competitive examination procedures, to the title of Program Coordinator Senior Citizens Transportation effective October 11, 2016. This provisional appointment generated an examination announcement (M0297V) for the subject title with a closing date of May 5, 2017, which resulted in a list of three eligibles that promulgated on July 27, 2017 and expires on July 26, 2020. It is noted that Pollard was deemed ineligible. A certification (OL170922) was issued on August 7, 2017 and consisted of three eligibles, including Kaleena Cunningham and A.S. All three eligibles were tied at rank one. Newark returned the certification indicating that Cunningham and A.S. were interested and requesting the removal of the third eligible but that no appointments would be made since the certification was incomplete.

Thereafter, Cunningham contacted Agency Services and indicated that she was interested in a provisional appointment. As a result, a second certification (OL180036) consisting of the names of Cunningham and A.S. was issued on January 10, 2018. Newark did not return the certification by the required disposition date. Agency Services issued a Notice of Violation and Salary Disapproval Order, both of which notified Newark that it was required to properly

dispose of the certification. However, Newark failed to return the certification. Subsequently, Agency Services referred the matter to the Civil Service Commission (Commission) for enforcement.

Newark was notified that the matter had been referred to the Commission for enforcement and that the Commission was reviewing the matter for possible action to be taken against Newark for its failure to properly dispose of the certification.

Despite several opportunities to do so, Newark has not returned the certification as requested nor has it submitted any additional information. Personnel records reveal that Pollard continues to serve provisionally in the subject title.

CONCLUSION

In the instant matter, although Cunningham has indicated her interest in the provisional appointment, Newark has failed to either provisionally appoint her or vacate Pollard's position. *N.J.S.A. 11A:4-8* and *N.J.A.C. 4A:4-4.2(c)2i* provide that when fewer than three interested eligibles are certified and no provisional currently serving in the title is listed on the certification, the appointing authority may either: make a permanent appointment; make a provisional appointment from the list; make a provisional appointment of another qualified person if no eligible on the list is interested; or vacate the position/title. Consequently, Newark must either provisionally appoint one of the listed eligibles, provide legitimate reasons for their removal from the eligible list, or vacate the subject position.

The Commission is specifically given the power to assess compliance costs and fines against an appointing authority, including all administrative costs and charges, as well as fines of not more than \$10,000, for noncompliance or violation of Civil Service law or rules or any order of the Commission. *N.J.S.A. 11A:10-3; N.J.A.C. 4A:10-2.1(a)2*. See *In the Matter of Fiscal Analyst (M1351H), Jersey City*, Docket No. A-4347-87T3 (App. Div. February 2, 1989). Therefore, Newark is ordered to return the certification within 20 days of receipt of this decision either provisionally appointing one of the listed eligibles, providing legitimate reasons for their removal from the eligible list, or vacating the subject position. If, at any time, Newark does not adhere to the timeframes for the proper certification disposition without an approved extension of time, it shall be assessed fines of \$100 per day for each day of continued violation up to a maximum of \$10,000.

ORDER

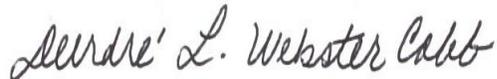
Therefore, it is ordered that Newark properly dispose of the January 10, 2018 certification (OL180036) of the eligible list for Program Coordinator Senior Citizens Transportation (M0297V) within 20 days of receipt of this decision.

Furthermore, the Commission orders that the costs incurred by this agency in the compliance process be assessed against Newark in the amount of \$1,000, pursuant to *N.J.S.A.* 11A:10-3 and *N.J.A.C.* 4A:10-3.2(a)5, to be remitted within 30 days of receipt of this decision.

If no proper disposition is made within 20 days of receipt of this decision, without an approved extension of time, the Commission orders that Newark be assessed a fine in the amount of \$1,000 for its failure to properly dispose of the certification. Thereafter, Newark shall be assessed fines of \$100 per day for each day of continued violation up to a maximum of \$10,000.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 15TH DAY OF APRIL, 2020



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